

REMARKS

The Applicants thank the Examiner for the examination to date and respectfully request reconsideration of the present application in view of the foregoing amendments and the reasons that follow.

I. Status of the Claims

Independent claims 54 and 101 are amended to make minor editorial changes. Non-elected claims 79-94 and 98-100 are cancelled without prejudice or disclaimer. The Applicants reserve the right to pursue the subject matter of the cancelled claims in a continuing application. Non-elected claims 68-78 (from Group II) remain withdrawn and claims 71 and 76 are amended to parallel the elected claims; the Applicants maintain the position as set forth in the March 15, 2010 Amendment and respectfully request rejoinder of the remaining non-elected claims with claims 54-67, 95-97, and 101. No new matter is introduced, and claims 54-67, 95-97, and 101 are currently being examined on their merits.

II. Claim Rejection – 35 U.S.C. § 102

Claims 54, 55, 60-63, 95-97, and 101 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by US Patent No. 5,505,695 (“Eplett”). The Applicant respectfully traverses the rejection.

Eplett’s teachings cannot anticipate present independent claims 54 and 101 because Eplett does not disclose every element recited in these claims. While not acquiescing to the grounds of the rejection, present independent claims 54 and 101 are amended with respect to the recitations regarding the at least one component and the first and second ends. The Applicants respectfully submit that the foregoing amendments render moot the Office’s assertions on pages 2-3 of the Office Action that these recitations do not carry patentable weight.

Contrary to the Office’s assertion on page 2 of the Office Action, nowhere does Eplett disclose an (1) inflatable and expandable means and (2) an LMAC that has a molecular weight

equal to or less than 250 U. At the outset, the cuff of Eplett comprises a “sponge, foam or similar porous biocompatible material.” Eplett, col. 3, lines 26-27. A sponge or foam can hardly be characterized as an “inflatable” material, as recited in present independent claim 54 and 101. It can be readily understood that an inflatable material would be one such as an elastic material, as described in ¶ [0040] of the present Specification as-published. Further, an example of an inflatable would be a rubber balloon, which is far different from a ‘sponge’ or ‘foam.’ Furthermore, contrary to the Office’s assertion, Eplett is complete silent regarding any specific LMAC, much less an LMAC that has a molecular weight equal to or less than 250 U.

Because Eplett does not disclose each and every element recited in present independent claims 54 and 101, Eplett’s teachings cannot anticipate present claims 54 and 101, or their respective corresponding dependent claims. The Applicants further traverse the Office’s rejection for claims 95-97 based upon “functional equivalent.” The Applicant respectfully submit that the Office’s basis contradicts the guidance delineated by the Board of Patent Appeals and Interferences in *Ex Parte Kershaw*, Appeal Docket 2009-009308; decided February 5, 2010 (holding specifically that “functional equivalence is not enough to show anticipation of a structural component” (bold emphasis added)).

Accordingly, at least in view of the foregoing, the Applicants respectfully request that the rejection be withdrawn.

II. Claim Rejections – 35 U.S.C. § 103

Claims 56-59 and 64-66 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Eplett in view of US Patent No. 6,425,881 (“Kaesemeyer”). The Applicants respectfully traverse the rejection. Claim 67 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Eplett in view of US Patent No. 5,049,140 (“Brenner”). The Applicants respectfully traverse the rejections.

As a preliminary matter, the Applicants note that the U.S. Supreme Court in *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) has not removed the requirement that the prior art reference (or references when combined) must teach or suggest all the claim limitations. Indeed, *KSR* emphasized cases where all features are known. Furthermore, the exemplary rationales listed in MPEP § 2143 suggest that all elements (when the references are combined) need to be known in the art to support a conclusion of obviousness. Thus, the Office is not relieved of its responsibility of finding prior art teaching or suggesting all the features of the claimed invention to establish a *prima facie* case of obviousness.

The present claims are non-obvious over the teachings of Eplett, Kaesemeyer, and Brenner, alone or in combination. As explained previously, Eplett does not teach or suggest every element recited in the present claims. Specifically, Eplett does not at all teach or suggest an inflatable and expandable means and Eplett is complete silent regarding an LMAC with a molecular weight of equal to or less than 250 U. The Office has relied upon the teachings of Kaesemeyer and Brenner for the specific LMAC embodiments and metal ions, respectively, but the teachings of Kaesemeyer and/or Brenner do not remedy any of the aforescribed deficiencies. Thus, one of ordinary skill in the art would not have had a reason to combine the teachings of Eplett with those of Kaesemeyer and/or Brenner. Even assuming, *arguendo*, that these teachings were combined, the presently claimed embodiments would not have resulted.

At least in view of the foregoing, the teachings of Eplett, Kaesemeyer, and Brenner, alone or in combination, do not render the present claims obvious. Therefore, the Applicants respectfully request that the rejections be withdrawn.

CONCLUSION

The Applicants believe that the present application is now in condition for allowance and respectfully request favorable reconsideration of the application.

The Office is invited to contact the undersigned by telephone if a telephone interview would advance the prosecution of the present application.

The Office is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorize payment of any such extensions fees be charged to Deposit Account No. 19-0741..

Respectfully submitted,

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